

MINUTES OF THE REGULAR MEETING OF July 17, 2014

A special meeting of the Sussex County Planning and Zoning Commission was held Thursday afternoon, July 17, 2014, in the County Council Chambers, County Administrative Office Building in Georgetown, Delaware.

The meeting was called to order at 3:05 p.m. with Chairman Wheatley presiding. The following members of the Commission were present: Mr. Robert Wheatley, Mr. Michael Johnson, Mr. Rodney Smith, and Mr. I.G. Burton III, with Mr. Vincent Robertson – Assistant County Attorney, and Mr. Lawrence Lank – Director.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to approve the Agenda as amended to reference the withdrawal of Other Business item “Shoal Harbor”. Motion carried 4 – 0.

OLD BUSINESS

**Subdivision #2012-2 - H K S 4, L.L.C.**

Application of **H K S 4, L.L.C.** to consider the Subdivision of land in an AR-1 Agricultural Residential District in Dagsboro Hundred, Sussex County, by dividing 63.59 acres into 138 lots, (expansion of 16 lots to an approved 122 – lot Environmentally Sensitive Overlay District), located south of Road 336 (Piney Neck Road) approximately 1,800 feet west of Road 335 (Bunting Road) (Tax Map I.D. 2-33-7.00 – 28.02, 30.00, 205.00, 206.00, 208.00, 329.00, 207.00, 330.00 & 331.00).

Mr. Lank advised the Commission that this is the final record plan for a 16 lot expansion to a previously approved 122-lot subdivision in an Environmentally Sensitive Developing District Overlay Zone; that the revised plan is for 138 lots; that the Commission granted preliminary approval for this application on April 26, 2012; that the final record plan complies with the subdivision and zoning codes and the conditions of preliminary approval; that all agency approvals have been received; and that final record plan approval can be granted.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to grant final approval of Subdivision #2012-2 for H K S 4, L.L.C. Motion carried 4 – 0.

**Change of Zone #1751 – Peninsula at Long Neck, LLC**

Application of **PENINSULA AT LONG NECK, LLC** an Ordinance to modify Condition No. 10 (C) imposed on Ordinance No. 2180 for Change of Zone No. 1697, the application of Peninsula at Long Neck, LLC for “The Peninsula”, a MR-RPC Medium Density Residential District – Residential Planned Community, to extend the time to construct and open for use the golf clubhouse facility (911 Address: None Available) (Tax Map I.D. #2-34-30.00-1.00 and others).

The Commission discussed this application which has been deferred since June 12, 2014.

The Commission expressed concerns about how and when the clubhouse would be built; that bonding and securities are needed to guarantee construction of the clubhouse to protect the

residents of the project; that someone suggested an amount of \$10,000,000 to complete the clubhouse and the area around it; that an estimate is needed to make that determination; that a base square footage is needed to calculate an estimate; that there is a need for predictability; that if the modification is approved there needs to be conditions and safeguards; that the residents spoke in support; that the residents purchased their properties expecting a clubhouse; and that the full Commission should be present when the application is reviewed again.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to defer action for further consideration. Motion carried 4 – 0.

There was a consensus of the Commission that the application be placed on the Agenda for July 24, 2014.

### OTHER BUSINESS

#### **Shoal Harbor – Revised Site Plan – Rehoboth Avenue**

Mr. Lank advised the Commission that this site plan request has been withdrawn by the Applicant, and that the letter of withdrawal references that the developer is going to build the pool and pool-house as originally proposed when the site plan was approved.

#### **Dollar General – Ellendale – Preliminary Commercial Site Plan – Route 16**

Mr. Lank advised the Commission that this is a preliminary site plan for a 9,100 square foot, 2 ½ story building located on 2.53 acres; that the site is zoned CR-1 Commercial Residential; that the proposed building height is noted to be 35 feet; that the setbacks meet the minimum requirements of the zoning code; that 38 parking spaces are required and that 39 parking spaces are proposed; that 15 parking spaces are within the front yard setback and are subject to site plan review; that ingress/egress is off of Route 16; that central sewer will be provided by Sussex County; that an on-site well is proposed; that there are no wetlands on the site and that the site is not located in a flood zone; that if preliminary approval is granted, final site plan approval could be subject to the staff receiving all agency approvals; that there are two (2) typographical errors on Sheet 1 (zoning classification and number of parking spaces proposed); that those two errors will need to be corrected on the final site plan; that the Commission was previously provided copies of the site plans; and that the Tax Map I.D. is District 2-30 Map 26.00 – Parcel 102.00 (part of).

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to grant preliminary approval of the site plan and a waiver to allow the parking in the front yard setback. Final Site Plan approval shall be subject to the staff receiving all agency approvals and the corrected notes previously referenced. Motion carried 4 – 0.

#### **Lewes Brewpub – Preliminary Commercial Site Plan – Road 268**

Mr. Lank advised the Commission that this is a preliminary site plan for a 4,600 square foot brew pub restaurant located on 2.30 acres; that the site is zoned CR-1 Commercial Residential; that the proposed building height is noted to be 42 feet maximum; that the setbacks meet the minimum requirements of the zoning code; that there are no wetlands on this site, however there

is a 50-foot setback from the State Wetlands that are located on an adjacent parcel; that 108 parking spaces are required and that 113 parking spaces are proposed; that 30 parking spaces are located within the front yard setback and are subject to site plan review; that the site is not located in a flood zone; that central sewer will be provided by Sussex County; that central water will be provided by Tidewater Utilities; that if preliminary approval is granted, final site plan approval could be subject to the staff receiving all agency approvals; that the Commission was previously provided a copy of the site plan; and that the Tax Map I.D. is District 3-34 Map 6.00 Parcel 66.09.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to grant preliminary approval of the site plan and a waiver to allow the parking in the front yard setback. Final Site Plan approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

### **Vineyards – Phase 1A – Revised Site Plan – Route 9**

Mr. Lank advised the Commission that this is a revised preliminary site plan for four (4) three (3) story apartment buildings, each containing 24 units for a total of 96 units; that 48 one-bedroom and 48 two-bedroom apartments are proposed; that the site is zoned C-1 General Commercial; that each building is proposed to be 60 feet by 130 feet; that the setbacks meet the minimum requirements of the zoning code; that 408 parking spaces are required and 412 parking spaces are proposed; that the original approved site plan for this area was for six (6) mixed use buildings; that 927 total units were originally approved; that two (2) of the originally approved building have been constructed; that those two (2) buildings are retail buildings with apartments on the upper floors; that the maximum building height for these four (4) buildings is 42 feet; that central sewer will be provided by Sussex County; that central water will be provided by Tidewater Utilities; that the site is not located in a flood zone and that there are no wetlands on the site; that if preliminary approval is granted, final site plan approval could be subject to the staff receiving all agency approvals; that the Commission was previously provided a copy of the site plan; and that the Tax Map I.D. is District 3-34 Map 5.00 Parcel 152.00.

The Commission found that Preston Schell was present on behalf of the developers and advised the Commission that they are proposing a clubhouse and swimming pool; that originally the clubhouse and pool were intended in a future phase of the project; and that additional amenities may be added in future phases.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to grant preliminary approval of the site plan for Phase 1A. Final Site Plan approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

### **Neo Gas – Preliminary Commercial Site Plan – U.S. Route 13**

Mr. Lank advised the Commission that this is a preliminary site plan for a natural gas filling station located on 2.98 acres; that the site is zoned C-1 General Commercial; that all infrastructure meets the minimum setbacks of the zoning code; that the improvements consist of a gas metering station, a drier, 6 compressors, an electrical transformer and switchgear, 2 chillers, 2 heat exchangers, a filling station, an underground gas service connect to the existing

main gas line, an overhead pipe bridge, a canopy, and an concrete loading pad; that the area will be fenced; that a 10-foot by 40-foot office trailer is proposed which will have to be reviewed and approved as a Special Use Exception by the Board of Adjustment; that the project will be served by on-site septic and an on-site well; that there are no wetlands on the site; that the site is not located in a flood zone; that if preliminary approval is granted, final site plan approval could be subject to the applicants receiving a Special Use Exception from the Board of Adjustment for the office trailer and the staff receiving all agency approvals; that the Commission was previously provided with a letter of explanation and a copy of the site plan; and that the Tax Map I.D. is District 3-31 Map 2.00 Parcel 18.00.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously to grant preliminary approval of the site plan subject to the Board of Adjustment granting approval of the office trailer. Final Site Plan approval shall be subject to the staff receiving all agency approvals. Motion carried 4 – 0.

### **Rehoboth Landing – Preliminary Commercial Site Plan – Route 24**

Mr. Lank advised the Commission that this is a preliminary site plan for 141,700 square feet of retail for Phase 1 and 20,400 square feet for Phase 2; that the entire site contains 21.70 acres and is zoned CR-1 Commercial Residential; that access to the site is from connector roads located off of Route 24; that the setbacks meet the minimum requirements of the zoning code; that 851 parking spaces are required and that 971 parking spaces are proposed; that there are parking spaces within the front yard setback which are subject to site plan review; that there are no wetlands on the site; that the site is not located in a flood zone; that central sewer will be provided by Sussex County; that Tidewater Utilities will provide central water; that only preliminary approval should be considered since a landscape plan is required since the project exceed 75,000 square feet in size; that the Commission was previously provided with an Environmental Assessment and Public Facilities Report and a copy of the site plan; and that the Tax Map I.D. is District 3-34 Map 12.00 Parcels 127.07, 127.08, 127.09, and 127.01.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to grant preliminary approval of the site plan. The Final Site Plan shall be subject to the review and approval of the Planning and Zoning Commission. Motion carried 4 – 0.

### **Eastern Shore Auto Exchange – C/U #1980 – Site Plan – Route 5**

Mr. Lank advised the Commission that this is a site plan for a used car sales facility located on 14,295 square feet; that the site is zoned B-1 Neighborhood Business and that the Conditional Use was approved on April 8, 2014 with 10 conditions; that the Conditions of Approval are noted on the site plan; that the proposed display area meets the minimum requirements of the zoning code; that no new structures are proposed; that existing on-site septic and well will be utilized; that all agency approvals have been received, except for DelDOT; that if preliminary approval is granted, Final Site Plan approval could be subject to the staff receiving DelDOT approval; that the Commission was previously provided with a copy of the site plan; and that the Tax Map I.D. is District 2-34 Map 4.00 Parcel 11.00.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously to grant preliminary approval of the site plan. Final Site Plan approval shall be subject to the staff receiving all agency approvals, especially DelDOT. Motion carried 4 – 0.

**APD #2014-9 Lawrence E. Jestice, Sr.**

**Recommendation to the Delaware Agricultural Lands Preservation Foundation**

Mr. Lank advised the Commission that this is an application for an Agricultural Preservation District located at the northwest corner of the intersection of Route 24 (Laurel Road) and Road 449A (Jestice Farm Road) in Broad Creek Hundred; that the total acreage is 322.02 acres with 200.02 acres being crop land and 112 acres being woodland; that the type of farm operation is grain; that there is a residence on the site and two (2) other tenant homes and a vacant trailer; that the purpose of this application is for a recommendation to the Delaware Agricultural Lands Preservation Foundation that the site be designated as an Agricultural Preservation District; that the Commission was previously provided with information that was submitted by the Foundation; and that the Tax Map I.D. is District 2-32 Map 19.00 Parcels 9.00, 13.00, 14.00, 15.00 and 16.00.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried three (3) votes to forward this request to the Delaware Agricultural Lands Preservation Foundation with a recommendation that the application be approved. Motion carried 3 – 0, with Mr. Wheatley abstaining.

**Ben and Grace Peterson – 50 Foot Easement – Portsville Road**

Mr. Lank advised the Commission that this is a request to create a 50-foot wide easement across Tax Map I.D. District 4-32 Map 7.00 Parcel 17.01 to serve as access to Tax Map I.D. District 4-32 Map 7.00 Parcel 17.06; that Parcel 17.06 is currently accessed by a gravel driveway that is located on Parcel 17.01; that the two (2) owners have agreed to the easement and that both parties will share equally in the maintenance of the easement; and that the Commission was previously provided a sketch drawing of the request and a copy of a letter from the surveyor.

Motion by Mr. Smith, seconded by Mr. Johnson, and carried unanimously that the request be approved as submitted. Motion carried 4 – 0.

**John Hamstead – 3 Lots & 50 Foot Easement – Road 621**

Mr. Lank advised the Commission that this is a request to subdivide an 11.17 acre parcel into 3 lots with access from a 50-foot wide easement; that the owner is proposing to create the easement over an existing driveway; that lots 1 and 2 will be a minimum of 0.75 acres and the residual lands will contain 9.67 acres; that the site is zoned GR General Residential; that the request may be approved as submitted, or an application for a major subdivision can be required; that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require an application for a major subdivision; that the Commission was previously provided with a copy of a sketch drawing of the request; and that the Tax Map I.D. is District 1-30 Map 6.00 Parcel 82.04.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to grant approval of this request with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 4 – 0.

**John Hamstead – 3 Lots & 50 Foot Easement – Road 621**

Mr. Lank advised the Commission that this is a request to subdivide a 5.0 acre parcel into 3 lots with access from a 50-foot wide easement; that the owner is proposing to create the easement over an existing driveway; that lots 1 and 2 will be a minimum of 0.75 acres and the residual lands will contain 3.50 acres; that the site is zoned GR General Residential; that the request may be approved as submitted, or an application for a major subdivision can be required; that if the request is approved as submitted, it should be stipulated that any further subdivision of the property will require an application for a major subdivision; that the Commission was previously provided with a copy of a sketch drawing of the request; and that the Tax Map I.D. is District 1-30 Map 6.00 Parcel 82.16.

Motion by Mr. Burton, seconded by Mr. Johnson, and carried unanimously to grant approval of this request with the stipulation that any further subdivision of the property will require an application for a major subdivision. Motion carried 4 – 0.

**Helen Street – 3 Parcels & 50 Foot Easement – Road 308**

Mr. Lank advised the Commission that this request was deferred at the June 26, 2014 meeting; that it is a request to subdivide a 12.60 acre parcel into three (3) 4.20 acre parcels with access from a 50-foot wide easement; that the owner is proposing to create the 50-foot easement at the approved entrance location; that aerial photography does not depict a driveway, lane, road, etc.; that the request may be approved as submitted, or an application for a major subdivision can be required; that if the request is approved as submitted, it should be stipulated that any further subdivision of the site will require an application for a major subdivision; that the Commission was previously provided with a copy of sketch drawing; and that the Tax Map I.D. is District 2-34 Map 28.00 Parcel 56.03.

Motion by Mr. Johnson, seconded by Mr. Burton, and carried unanimously that this request be denied as submitted since a driveway does not already exist as the proposed easement location. If the Applicant still desires to subdivide the property an application for a major subdivision shall be required. Motion carried 4 – 0,

**Additional Business**

Mr. Lank provided the Commission with copies of a Revised Agenda for the July 24, 2014 meeting.

Meeting adjourned at 3:55 p.m.

